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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,701	07/29/2002	Johannes Van Vuuren	702-020501	2431

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EXAMINER

JOHNSON, RAYMOND B

ART UNIT PAPER NUMBER

3652

DATE MAILED: 03/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

16/088741

Applicant(s)

Examiner

Johnson, R. B.

Group Art Unit

3652

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE Three (3) MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 7/29/02
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 20-36 is/are pending in the application.
- Of the above claim(s) 21, 24-29 & 30-33 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 20-23, 26-27 & 34-36 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). 8
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

OFFICE ACTION

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.
2. The preliminary amendment (paper no. 7 filed on 07/29/02) has been entered.
3. The document submitted in the IDS (paper no. 8) have been considered.
4. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

Species A Figs. 1-6;

Species B Figs. 7-9; and

Species C Figs 10-12.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

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5. The claims are deemed to correspond to the species listed above in the following manner:

Species A, claims 20-23, 26-27 and 34-36

Species B, claims 24-29 and 33-36

Species C, claims 21, 26, 27, 30-32 and 34-36

The following claim(s) are generic: 26, 27 and 34-36.

6. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: The respective species have mutually exclusive technical features e.g. species A lacks element: 50 of species B; and 114 of species C; species B lacks element: 132 of species C and element 8 of species A; species C lacks technical features 18, 22 of species A and 50 of species B.

7. During a telephone conversation with Mr. R. L. Byrne on 12/10/03 a provisional election was made with traverse to prosecute the invention of species A, claims 20-23, 26-27 and 34-36. Affirmation of this election must be made by applicant in replying to this Office action. Claims 24, 25, 28-33 ^{are} withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected ^{species} ~~invention~~.

8. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "fixing means" (claim 21); "source of energy" (claim 26) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

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A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

9. The disclosure is objected to because of the following informalities: The references to the claims (e.g. page 2, lines 23, 26) in the specification is improper. Moreover, said line refer to cancelled claims.

Appropriate correction is required.

10. Claims 20-23, 26-27 and 34-36 are objected to because the language "busy location" (claim 1 line 2), "difficult to access" is not defined in the specification.

Claims 21-23 and 26-27 are dependent, directly or indirectly, upon claim 20 and are thus subject to the same objection. The term "smoothly accessed" (claim 34, line 4) is unclear. The distinction, if any, between "transporting means" and "transporter" in claim 34 should be clarified. The language "suitable for the purpose" in the claims (parent 35 and its dependent claim 36) should recite the purpose.

11. In so far as the claim(s) are understood, the following rejections on the prior art are being rendered. The applied references may, but not necessarily, respond to the indefinite and/or inadequate disclosure matters noted. Such matters will not be specifically addressed in the rejections.

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:


(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

13. Claims 20, 23, 27 and 34-36 are rejected under 35 U.S.C. 102(b) as being anticipated, i.e. failing to define any novel method steps or structure by Achammer. See corresponding claimed elements: 21(transporter); 1; 9; 40; 44; 43; 2 (floor) Fig 6; 40 (recess).

14. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Achammer described above, in view of Austin et al.

 Austin et al show ^{the omitted} means 100/106 for fixing a transport to a storage/support means.

It would have been obvious to modify Achammer with means to fix the transporter 21 to the truck/carrier 1 during storage or moving operation to maintain the transporter in safe condition when in either a storage or moving operation, because of the teaching of Austin et al.

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15. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Achammer in view of Lutz et al.

Achammer, describe above, disclose the claimed apparatus except for the recited foldable wheel on the load support member of the transporter.

Lutz et al disclose the recited foldable wheel 34 on the load support member of a transporter.

It would not be a patentable innovation to modify Achammer with a foldable wheel on the load support member of the transporter because at the time that applicant invention was made the claimed subject matter as a whole would have been obvious to a person having ordinary skill in the instant art. It would have been obvious to modify Achammer's transporter by providing retractable or foldable wheels on the load support member 20 to provide a safe storage position of the wheels when the transporter is being carried by another vehicle because foldable wheels are a common storage expedient in the art ^{PCR} Lutz et al.

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The pertinent portions of the prior art is referenced to by numerals and/or Figs.


D(5, 16, 7-8); and E(16, Fig. 3).

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to R.B. Johnson whose telephone number is (703) 308-2565. The examiner can normally be reached on Monday-Thursday from 6:30-7:30 a.m. to 5:00-6:00 p.m.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, E.D. Lillis, can be reached on (703) 308-3248. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-4177.

 2/11/04
Johnson/vs
February 11, 2004


EILEEN D. LILLIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600